

## **Minutes**

### **Public Schools Accountability Act Advisory Committee Meeting 721 Capitol Mall, Room 166**

**November 3, 2000  
1-3 pm**

#### **MEMBERS PRESENT**

Holly Covin, Co-Chair, Assistant Executive Director, Policy Analysis and Research, CSBA  
General Davie, Co-Chair, Superintendent, San Juan USD  
Vicki Barber, El Dorado County Superintendent of Schools  
Patsy Estrellas, Teacher, Norwalk La Mirada SD/California Teachers Association  
Jerry Hayward, Director, Policy Analysis for California Education  
Jere Jacobs, Former Assistant Vice President, Pacific Telesis  
Kelvin Lee, Superintendent, Dry Creek Joint Elementary School  
Rene Townsend, Professor/Consultant, CSU San Marcos, College of Education  
Chuck Weis, Superintendent, Reef Sunset USD

#### **MEMBERS ABSENT**

Sam Araki, Former President, Lockheed Martin Missiles & Space  
Eva Baker, Director, Center for the Study of Evaluation, UCLA  
Tom Boysen, Senior Vice President, Education Milken Family Foundation  
Mary Alice Callahan, President, Morgan Hill Federation of Teachers  
Rudy Castruita, Superintendent, San Diego County Superintendent of Schools  
Leslie DeMersseman, Immediate Past President, CSBA  
Bob Friedman, Chief Operations Officer, CSIS  
Ed Haertel, Professor, Stanford University, School of Education  
Janett Humphries, President, SEIU Local 99, LAUSD  
Cecelia Mansfield, California State PTA  
John Mockler, Interim Secretary, Office of the Secretary for Education  
Sidney Morrison, Principal, North High School/ACSA State President  
Lynette Nyaggah, Teacher, Rio Hondo College  
Dolores Ochoa, Parent, State Parent Advisory Board  
Jeff Orlinsky, Teacher, Warren High School  
Bill Ouchi, Vice-Dean, Anderson School University of California at Los Angeles  
Scott Plotkin, Chief Consultant and Staff Director, Senate Education Committee  
Tamara Powers, Parent  
Ernesto Ruiz, Director, Migrant Ed. Region 2  
Shelly Spiegel-Colman, ESL Consultant, Los Angeles COE  
Irene Sumida, Co-Director, Fenton Avenue Charter School  
Rosie Thompson, Business Unit Executive, IBM Global Education, IBM  
Lynn Wilen, Superintendent, Reef Sunset USD

## **STATE BOARD OF EDUCATION LISISONS**

Marian Bergeson (Absent)

Susan Hammer (Absent)

## **PRINCIPAL STAFF TO THE ADVISORY COMMITTEE**

William Padia, Director, Policy and Evaluation Division

Patrick Chladek, Manager, Awards Unit

Pat McCabe, Manager, Educational Planning and Information Center

Call to Order: Co-Chair Holly Covin convened the meeting at 1:07 pm.

Purpose of the meeting: Ms. Covin explained that the Committee was convened because of a request from the State Board of Education (SBE; "Board") to look into the issue of API validity at schools with adult testing irregularities or substantial parent requests to opt their children out of testing.

These issues -- and the way that the SBE handles them -- explained Ms. Covin, will have a considerable impact on the integrity of API and the credibility of the accountability system.

Emergency regulations were adopted at the SBE's last meeting, and the SBE asked that the Committee advise in anticipation of requests for waivers to the regulations. Ms. Covin said that the SBE will be meeting next week on this issue, so it was important that the Committee move ahead quickly.

Ms. Covin praised the Technical Design Group (TDG) for good work in advance of today's meeting. She also announced that General Davie will join her as co-chair of the Committee.

Mr. Padia introduced Patrick Chladek to the Committee and announced that Mr. Chladek is the new administrator of the Awards Unit. Mr. Padia explained that Linda Carstens had moved from administrator of the Awards Unit to administrator of the Evaluation and Analysis Unit. Mr. Chladek reported that Ms. Carstens would be unable to attend the meeting.

Mr. Padia explained that when the SBE adopted emergency regulations for the awards programs, there were three specified scenarios when the API would not be calculated. They shared one defining feature – the resulting API would not be valid or representative of the school's population. Mr. Padia encouraged members of the Committee to consider the principle of API validity during the discussion.

Mr. Padia explained that all three scenarios involve some certification by the local education agency (LEA). The LEA can certify that:

- there were adult testing irregularities at the school;
- the tested population was not representative of pupil population at the school; or

- the school has experienced significant demographic change since the time of
- baseline testing, rendering the APIs not comparable across years.

According to Mr. Padia, the SBE asked what circumstances should be considered if a district requests a waiver. The TDG was asked what technical solutions would be possible for such waivers.

Mr. Padia clarified that a school cannot request a waiver; waiver requests must come from the LEA.

The discussion moved to specific issues that might precipitate a waiver request. Mr. Padia showed a chart illustrating the API reporting cycles and summarized the TDG's recommendations.

Issue 1, Adult Testing Irregularities, was presented. The TDG's recommendations said that there was no option for rendering a valid score for the API (Growth).

For the API (Base), however, the TDG suggested a possible adjustment. Mr. Padia characterized this as a reluctant recommendation, put forth by the TDG only because the Board had asked for options. The recommendation involves leaving in scores affected by testing irregularities, so that base year API will tend to be higher. The school would therefore have a more ambitious growth target in the following year. The TDG's recommendation was qualified: the TDG was not in favor of this option. It includes some scores that are suspect, and as such goes against the principle of using valid information exclusively. On the other hand, the resulting API would allow the school to be eligible for awards if it could make what would be an ambitious growth target.

Another option the TDG considered was to examine growth over two years, excluding or "skipping" the year during which an irregularity occurred. For a school with an irregularity in 2000, a comparison of its 2001 API would be made to its 1999 API (Base). According to Mr. Padia, the TDG rejected this idea chiefly because as different indicators come into the API, a school with an irregularity would be compared to other schools whose APIs would be based on all indicators. The TDG felt that it was unfair that schools with irregularities could qualify for awards without the full complement of indicators.

Mr. Weis commented that his decision on whether an API was valid would be different depending on the number of students affected by the irregularity.

Mr. Padia reminded the Committee that the TDG's report said that the scope of the irregularity should be considered in the decision.

Mr. Hayward suggested that since this whole process is new, the SBE could be lenient and grant a waiver once, so that no school would be ineligible for awards for two years. This would be a one-time decision that would revert to ineligibility for two years in the future.

Ms. Townsend remarked that giving the schools only a one-year exclusion would provide the Committee the opportunity to study the problem.

Ms. Covin clarified that the SBE had accepted the earlier PSAA Committee recommendation that testing irregularities or substantial parent waivers from testing would invalidate the API and render a school ineligible for awards for two years. The SBE now wants a recommendation specifically to guide it with respect to waiver requests.

Ms. Barber expressed concern that including all scores (thus producing a more challenging base) could be turned inappropriately into favorable public relations for the school because of the appearance of a higher API. Mr. McCabe explained that no ranks would be reported where an irregularity had occurred.

Issue 2, Excessive Parent Opt-Outs. Bill Padia explained that Paul Warren had sent out a letter on the issue (dated 10/26/00). The letter asks districts to certify to the CDE whether the API is valid and whether or not the testing population reflects a random sample of the school. If the testing population is a systematically biased sample, that could bias the API.

The TDG recommended no adjustments to the policy of ineligibility for two growth cycles.

Mr. Jacobs stated that "systematically biased" needs clarification. He proposed that if the parents of high-scoring students opt out, then there would be no problem.

Mr. Padia responded that in that case the API would be artificially depressed, and the school could benefit next year if high-performers return to the testing population.

He reiterated that this discussion is not an issue of the ethics of individuals, rather it concerns the fundamental integrity of the accountability system by protecting its main measure. There needs to be confidence that the API is a valid measure of achievement at the school. Mr. Padia felt that considering validity "makes the discussion easier" in terms of public policy.

Mr. Hayward asked whether information on parent opt-outs was available for the 1999 testing. Mr. Padia answered in the negative.

Mr. Hayward suggested that schools could argue that having 10% opt-outs in each year represents no change. Mr. Padia responded that change is just one issue. Each year's API, said Mr. Padia, must be reflective of the school population in that year.

Mr. Weis stated that we do not know how untested students would have scored, even if we have an idea of their demographic characteristics.

At this point, Ms. Covin asked whether there was any comment from the members of the public who had requested the opportunity to address the Committee.

Martha Diaz, identifying herself as a representative of the California Association for Bilingual Education, expressed a concern about legal issues. On one hand, parents have a right to opt that their children not be tested. On the other, penalizing the school district for parent behavior may not be legal. Ms. Diaz also expressed displeasure that other indicators, promised in earlier discussions, had not made their way into the index.

Mr. Geeting suggested that a school with a large percentage of opt-outs would be comparable in future years provided that the nature and extent of opt-outs is stable over time. Mr. Padia mentioned that one of the greatest gains occurred at a school where parents had opted out around 50% of the student population. Mr. Padia thought such a school should not be eligible for awards. Mr. Geeting asked, if the opt-out pattern will continue, then why should the school be ineligible. Mr. Padia said that the state does not have the obligation to reward schools that do not test a representative group, even though the group they test may be stable over time.

Mr. Geeting asked for guidance for when the SBE hears the petition that an irregularity was not material (e.g., an irregularity on only one test item or a small number of students affected).

Ms. Freeman, member of the public from San Juan USD, asked where it exists in the law that a school MUST certify the validity of the scores. She pointed out that there is no "must" language. Mr. Padia responded that the school will not get an API unless the district certifies. Ms. Freeman observed that the regulations (for example, language stating that no API will be reported if a district certifies that there has been a change in population) are subject to interpretation the opposite way (that is, that the absence of certification would result in the API being reported). Mr. Jacobs remarked that if a district does not certify, then the state will not calculate an API. Ms. Covin reiterated that the reverse interpretation was also legitimate. Mr. Lee remarked that the district has to make validity certifications at each step in the process.

Returning to Ms. Diaz's second point, about inclusion of additional indicators into the index, Mr. Padia explained that it is expected that the 2001 API (Base) will include the California Standards Test - English Language Arts. Mr. Hayward asked whether there was any chance of indicators other than test items. Ms. Covin replied that the Committee has had many discussions about other indicators. The Spanish language test is not administered consistently across the state. Ms. Covin expressed support for CSIS, the student information system. CSIS, once it is fully implemented, could provide data for non-test indicators for the index.

Ms. Diaz emphasized that there are plenty of middle class parents that opt out their children; it's not simply language minority parents. Ms. Covin appreciated her statement, calling it a point "that's not lost on any of us."

Mr. Hayward advocated for using the two-year comparison just once, from 1999 to 2001, and then never again using a two-year rule. He argued that fairness requires clemency in situations where the infraction is not severe. (Note: the TDG had concerns about the disincentive to do well during the first year of a two-year period of ineligibility.)

Mr. Weis remarked that schools for the most part have no control over who opts out. Punishing them for the decisions of parents seems unjust, he said. Ms. Covin reinforced the importance of the validity/integrity of the API as a measure of performance. Mr. Weis observed that in a community where parents make use of opt-outs, one would never truly know about the whole school.

Mr. Jacobs shared a headline from his local paper (Santa Rosa). Though the story was about high waivers at two schools, the implication from the headline was that the school was cheating. He stressed the importance of simplicity in developing the policy.

Ms. Townsend praised the TDG's work as thoughtful. She observed that thinking in terms of the validity of the API was useful.

Ms. Barber requested that the discussion be limited to one issue at a time.

Mr. Davie asked whether it was feasible to track students that are opted out and exclude their scores forever. This would avoid schools changing populations to their advantage. Mr. Padia replied that it would not be possible without a student information system.

Ms. Covin restated the TDG's recommendation that no API (Growth) could be calculated in the case of adult testing irregularities. API (Growth) would be invalidated. This affects one awards cycle. All concurred.

As for the next year's API (Base), which uses the same test data, Ms. Covin restated the TDG's recommendation that it be invalidated as well. A compromise position would be to count all affected scores, thereby producing a higher baseline score.

Mr. Hayward argued that using invalid measures doesn't make sense. He argued that schools be held accountable using a comparison back to the previous year (1999 Base). In some cases, he argued, schools may have understood neither what constitutes an irregularity nor the consequences of an irregularity. Mr. Weis concurred.

Ms. Barber thought that counting the higher scores in the base was a reasonable option.

Mr. Hayward suggested that the circumstances of the case could determine which option the SBE preferred. Mr. Padia reminded the Committee that any decision would have to make sense not only for awards, but for interventions as well.

Mr. Geeting explained that the Board will have little time to reflect on individual cases. If a waiver request is not acted upon in two meetings, then it is as if it were approved.

Mr. Flores, member of the public from Long Beach USD, remarked that some cases were clear-cut. Many others, however, involve large gray areas. He directed the Committee to page 4 of the TDG's recommendations, third bullet: inappropriate test preparation. He asked several questions: What does it really mean? What can one do to make a Stanford 9 type of question for one's class? He said that the field needs help with what's appropriate. Ms. Covin remarked that test preparation guidelines will be available in January from the CDE's Standards and Assessment Office. She said that the district is called upon to certify that no inappropriate actions were taken.

Mr. Flores asked what the response would be if the superintendent is unwilling to certify that an API is invalid. He asked whether the Committee was counting on the press to report these issues to the public.

Mr. Hayward observed that the standard for the district is that it demonstrated due diligence. Mr. Geeting then presented a scenario where the district asks, since we self-reported, why not just give us a one-year penalty? Or let THIS year's API count?

Mr. Hayward clarified that, as things stand, everyone has a two-year punishment. No one is talking about revisiting current year. The options are two- or one-year ineligibility. "Zero is not an option!"

Ms. Covin observed that including scores affected by an irregularity in the base was the only solution discussed that would address Ms. Barber's concern about accountability when an irregularity occurs in future years.

Mr. Flores asked for clarification of the two-year, "double-the-growth" policy for testing irregularities where a one-time waiver is granted to "skip" the year in which an irregularity occurred. All agreed that doubling the initial target was simple and appropriate. Mr. Flores asked whether the doubling would apply to subgroups. All agreed that the subgroup target would likewise be doubled.

Mr. Fattig, Consultant, Policy and Evaluation, CDE, asked whether including scores affected by an irregularity will be considered in future discussion. Ms. Covin replied in the affirmative.

Mr. Jacobs asked whether districts will defend their certifications with evidence. Mr. Padia replied in the affirmative. Mr. Jacobs then asked how the CDE would proceed following a certification. Mr. Padia replied that the CDE would continue to look into cases that were extreme. Mr. Warren, Deputy Superintendent, Accountability Branch, CDE, likened the opt-out issue, including how the CDE responds, to the situation with erasures.

Mr. Jacobs observed that an important difference is that parents have a legal option to opt out. Ms. Townsend suggested the possibility that the Committee recommend that a child be in the country for two years before testing. Mr. Lee reminded the Committee that such would not be consistent with the Committee's earlier recommendation that English Learners not contribute to the API.

Ms. Diaz reminded the Committee that the alternative programs are legal under Proposition 227. The districts have been implementing alternative programs. In some cases parents have supported dual immersion programs.

Mr. Hayward emphasized the distinction between opting out and electing a dual immersion program. He observed that, had the SBE followed the Committee's original advice regarding the exclusion of English Learners from the API, this would have been less of a problem.

Ms. Covin expressed her general comfort with making no adjustments to the TDG's recommendation that excessive waivers would render a school ineligible for awards for two years. She supported also including a recommendation for an ELL exclusion.

The Committee agreed to accept the TDG's recommendation that excessive waivers would render a school ineligible for awards for two years. The Committee discussed proposing a recommendation that the scores of English Learners who have been in the country for less than two years be excluded from the API.

Ms. Diaz argued that this recommendation doesn't resolve the problems that the schools have. Mr. Hayward replied that it was not clear whether it would. Ms. Townsend emphasized that award money is not an entitlement.

Ms. Covin argued that having a higher percentage of ELL kids actually tends to help a school achieve a higher growth rate. Testing them may actually be to schools' advantage. Ms. Diaz said that schools with a high percentage of ELL opt outs are not in districts that are doing well.

Mr. Weis suggested that it may be time to include SABE. Mr. Fattig observed that it needs to be consistently collected. Mr. Padia remarked that it is only administered in some schools. He was also concerned with how SABE scores could be adjusted for inclusion in the API. Mr. Weis clarified that he was saying that the SABE could go in as a component, not as some adjustment to the Stanford 9. Mr. Padia was unsure of how it would be added. Mr. Weis asked how the English Language Development test would be added. Mr. Padia acknowledged that the same problem of inconsistent administration affects that test.

Mr. Lee opined that the only solution was to use matched scores for the same student from year to year. Mr. Weis remarked that there would still be testing in a language they don't understand. Mr. Lee replied that so long as the emphasis would be on growth, this would not be a problem.

Ms. Barber framed a question in the following example: Assume that 11% of parents have opted their children out, and I prepare certification beyond question that the 89% tested were in fact representative, equally random. If the district certifies and the Department concurs, then is that school eligible? All responded in the affirmative.



Ms. Barber asked whether the certification applies only where serious questions exist. Mr. Weis remarked that it's hard with example of 50% opting out. Ms. Barber asked whether a school would be automatically out.

Mr. Hayward was concerned that there was an inconsistency: schools that have a testing irregularity have the possibility of ineligibility for only one year. But schools with parental waivers are ineligible for two years. Mr. Padia pointed out that schools still have to meet growth target.

Mr. Hayward suggested a blend of the two-year "double-the-growth" rule with the inclusion of affected scores in the base. Mr. Weis observed that the test takers must be both representative of the school population and comparable to the preceding year.

Ms. Covin asked whether it was important for API to represent the whole school or just a subgroup.

Mr. McCabe pointed out that the test takers must be both representative and comparable. Consider two schools in identical circumstances: if one plays by the rules, it may not get an award, if the other gets an award by virtue of not following the rules, this is fundamentally unfair.

Mr. Weis asked about students who participated in the test but did not receive scores. Mr. McCabe replied that the CDE considers them tested, counted as participants in the participation rate.

Mr. Geeting asked about schools with more than ten percent waivers. If a school certified that it had in 1999 parent opt outs at same level, would it be eligible for awards? Mr. Padia responded that the tested population would not be representative of the student population in 2000. Mr. Geeting asked whether a comparison of base year waiver rate to growth year waiver rate was relevant.

Mr. Hayward advised that the Committee stick to the message of both representative and comparable. He then asked Mr. Padia what is the magnitude of the problem. Mr. Padia replied that there are six or seven erasure irregularities where the district has confirmed the irregularity. In addition, there are 12 to 13 self-reported irregularities of a nature other than erasures. There are also 30 other schools that turned up in the erasure analysis, but the district is not confirming. The CDE is continuing dialogue on those. Even the maximum number of schools with an irregularity is a pretty small number.

On parent opt-outs, 155 schools have parent opt out rates of more than 10%. San Diego has 12 of these. Another 300 or 350 schools have opt-out rates of between 5 and 10 percent. Mr. Weis asked whether a school is out of II/USP if the district decertifies their API. Mr. Padia replied that a school would not receive an API. The CDE would consider case-by-case whether a school is out of the II/USP program.

Mr. Hayward asked whether a school could waive its way out of the II/USP. Mr. Padia replied that the II/USP subcommittee would have to come up with a solution. Ms. Diaz charged that this is unequal treatment: schools that have erasures might be excluded for only a year. But in schools where parents have exercised right to opt out, ineligibility would be for two years. This is not fair.

Mr. Flores remarked that there were only 21 opt-outs in his entire district. This represents double the number from the year before. Although he is still combing through results, the highest-growing school had the highest ELL percentage and made 130 points growth. In some cases, subgroups kept schools from meeting targets. He emphasized analyzing the results school by school and recommended putting together the API with other measures. He questioned the appropriateness of asking students to test in a language they do not speak. But other students struggle with the English language items. This raises technical issues that this Committee is not in a position to take up. Schools that meet growth targets meet them because of the performance of students, regardless of English language proficiency.

Yes, there is the legal opportunity to opt out kids. However, there is a new twist with the High School Exit Examination (HSEE): Where will students whose parents have opted them out be when they get to that year?

Mr. Hayward requested that the CDE publish the number of parent waivers on the school report. Mr. Padia agreed to do that.

Ms. Barber asked whether the Committee was considering other issues for establishing the agenda for the next meeting. Ms. Covin replied that the Committee would consider "800 schools" and the requirement of one point gain. Ms. Barber asked about the consequences of re-norming the SAT for this issue. Ms. Covin asked how much standards-based items will be weighted. Mr. Weis explained that a recommendation exists for five performance levels for the standards-based test. The reason cited is that this would be better for use in the API.

Mr. Jacobs asked whether the meeting on November 14<sup>th</sup> was still scheduled. Mr. Padia replied that the full Committee would not be meeting, but that some subcommittees may be. Ms. Covin stated that the next scheduled meeting would be January 17<sup>th</sup>.

Mr. Flores asked whether the AB 1114 awards would have a ten percent reserve. Mr. Padia stated the Department's goal to resolve this. Mr. Jacobs asked whether the Governor's Performance Awards (GPA) will be fully funded. Mr. Padia replied that he had no update. Mr. Jacobs expressed concern that there would be a big credibility problem if the GPA would not be fully funded. He said that this is seen in my area as being somebody else's program being applied to us. Those passing the test would get only one-half of the money that was earlier promised.

The meeting adjourned at 3:00pm.